UNITED NATIONS

HRI

International Human Rights Instruments

Distr.
GENERAL

HRI/CORE/1/Add.2/Rev.2
6 March 1995

ENGLISH
Original: SPANISH

CORE DOCUMENT FORMING AN INTEGRAL PART OF THE REPORTS OF STATES PARTIES

SPAIN*

[2 June 1994]

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* This document replaces the core document transmitted by the Government of Spain on 19 November 1992 and issued as document HRI/CORE/1/Add.2/Rev.1.

GE.95-15568 (E)

I. MAIN DEMOGRAPHIC, ECONOMIC AND SOCIAL INDICATORS

1. Spain has an area of 505,000 km². In 1991, the population stood at 38,872,268, of whom 48.97 per cent were males and 51.03 per cent females.

2. In 1991, the gross national product of Spain at market prices was 54,252.2 billion pesetas. In the same year, per capita income was 1,404,760 pesetas. The rate of inflation was 4.9 per cent in 1993.

3. Rate of unemployment: in 1993, it is estimated that 23.90 per cent of the active population were unemployed, or 20.02 per cent of males and 30.47 per cent of females in the active population. Rate of employment: males: 64.02 per cent and females: 35.23 per cent; total: 49.10 per cent.

4. The external debt of Spain stands at 1,670,711 million pesetas.

5. With regard to the literacy rate, the proportion of illiterate persons over 15 years of age expressed as a percentage of the total population over 15 years of age is estimated at 4.2 per cent. Within the population over 15 years of age, 7.1 per cent of females and 3.3 per cent of males are illiterate. If we break down the population over 15 years of age into age groups, we see that illiteracy is concentrated among the elderly. Thus, in the 16 to 29 age group, 0.6 per cent of females and 0.7 per cent of males are illiterate. In the 30 to 44 age group, 1.7 per cent of females and 1.3 per cent of males are illiterate. In the 45 to 49 year age group, 7.1 per cent of females and 3.6 per cent of males are illiterate. After the age of 60 and in the population group over this age, 17.3 per cent of women and 8.3 per cent of males are illiterate.

6. With regard to religion, it should be noted that article 16 of the Spanish Constitution guarantees freedom of religion and proclaims that there shall be no State religion. The same article establishes that "Nobody may be compelled to make declarations regarding his religion, beliefs or ideologies." A number of unofficial surveys conducted by private institutions put the percentage of Catholics in the Spanish population at 90 per cent, giving no specific information regarding religious practice.

7. In 1990, life expectancy for females was 80.49 years and for males 73.40 years.

8. Infant mortality: in 1989, 7.83 per thousand: in 1987, by sex, it was 7.57 girls per thousand and 10.09 boys per thousand and 8.88 per thousand for both sexes.

9. Maternal mortality (in 1990):

Deaths among women of child-bearing age (15 to 49 years): 7,206

Total deaths among females: 156,363

Population of women of child-bearing age: 9,757,961.

10. Fertility rate: for 1989 the average number of children per woman was 1.36. The birth rate was 10.40 and the average age at the birth of children was 28.6 years.

11. Percentage of the population under 15 years of age and over 65 years of age: in 1990, out of a total population of 7,094,982 persons under 15 years of age, there were 3,666,868 males (10.03 per cent) and 3,428,114 females (9.48 per cent), total 19.51 per cent. Out of a total population of 5,514,296 over 65 years of age, there were 2,276,299 males (5.24 per cent) and 3,237,997 females (7.64 per cent), total 12.88 per cent.

12. Population living in rural areas and in urban areas: 50.83 per cent of the population of Spain is legally resident in municipalities with more than 50,000 inhabitants.

Population legally resident, by areas, in 1991

	In municipalities	Scattered	Total
Rural areas	5 841 434	1 155 486	6 996 920
Intermediate areas	6 431 138	173 851	6 604 989
Urban areas	25 140 413	129 946	25 270 359

13. Percentage of households headed by women: a single-parent family is one in which the head does not have a spouse and has dependent children under 18 years of age. In the third quarter of 1991, out of a total of 283,600 families, 242,000 were headed by women and 41,600 by males. Families headed by women, as a percentage of families: 15.80 per cent.

II. GENERAL POLITICAL STRUCTURE

14. Spain took shape as a State in the fifteenth century. The Kingdom of Spain is a social and democratic State subject to the rule of law, whose Constitution dates from 27 December 1978. The political form of the Spanish State is the parliamentary monarchy.

A. The King

15. Article 56 (1) of the Constitution states:

"The King is the Head of State, the symbol of its unity and permanence. He arbitrates and moderates the regular working of the institutions, assumes the highest representation of the Spanish State in international relations, especially with those nations belonging to the same historic community, and exercises the functions expressly conferred on him by the Constitution and the law."

16. Article 62 of the Constitution states:

"It is incumbent upon the King:

(a) To sanction and promulgate the laws;

(b) To summon and dissolve the Cortes Generales and to call elections upon the terms provided for in the Constitution;

(c) To call a referendum in the cases provided for in the Constitution;

(d) To propose a candidate for President of the Government and, as the case may be, appoint him or remove him from office, under the terms provided in the Constitution;

(e) To appoint and dismiss members of the Government at the proposal of its President;

(f) To issue the decrees agreed upon by the Council of Ministers, to confer civil and military employments and award honours and distinctions in conformity with the law;

(g) To keep himself informed about the affairs of State and, for this purpose, to preside over the meetings of the Council of Ministers whenever he deems opportune, at the request of the President of the Government;

(h) To exercise supreme command of the Armed Forces;

(i) To exercise the right to grant pardons in accordance with the law, which may not authorize general pardons;

(j) To exercise the High Patronage of the Royal Academies."

B. The legislative power

17. Bicameral. Article 66 of the Constitution states:

"1. The Cortes Generales represent the Spanish people and consist of the Congress of Deputies and the Senate.

2. The Cortes Generales exercise the legislative power of the State, approve its budgets, control government action and hold all the other powers vested in them by the Constitution.

3. The Cortes Generales are inviolable."

The members of the Cortes Generales are elected by universal, free, equal, direct and secret ballot.

C. The executive power

18. Article 97 of the Constitution states:

"The Government directs domestic and foreign policy, civil and military administration and the defence of the State. It exercises the executive function and statutory authority in accordance with the Constitution and the law."

19. Article 99 of the Constitution provides:

"1. After each renewal of the Congress of Deputies, and in the other cases provided for in the Constitution, the King, after consultation with the representatives appointed by the political groups with parliamentary representation, and through the President of the Congress, shall propose a candidate for President of the Government.

2. The candidate proposed in accordance with the provisions of the foregoing paragraph shall submit to the Congress of Deputies the political programme of the Government that he intends to form and shall seek the confidence of the Chamber.

3. If the Congress of Deputies, by vote of the absolute majority of its members, grants its confidence to the said candidate, the King shall appoint him President. If the said majority is not obtained, the same proposal shall be submitted for a fresh vote 48 hours after the previous vote, and it shall be considered that confidence has been obtained if it passes by a simple majority.

4. If, after the said voting, confidence for the investiture has not been obtained, successive proposals shall be voted upon in the manner provided in the foregoing paragraphs.

5. If, within two months from the first vote for investiture, no candidate has obtained the confidence of Congress, the King shall dissolve Congress and call new elections, following endorsement by the President of the Congress."

20. Article 100 of the Constitution stipulates:

"The other members of the Government shall be appointed and dismissed by the King on the proposal of its President."

21. Article 101 of the Constitution states:

"1. The Government shall resign after the holding of general elections, in the event of loss of parliamentary confidence as provided in the Constitution, or on account of the resignation or death of its President.

2. The outgoing Government shall continue to exercise its functions until the new Government takes office."

D. The judicial power

22. Article 117 of the Convention states:

"1. Justice emanates from the people and is administered on behalf of the King by judges and magistrates of the Judiciary who shall be independent, irremovable, liable and subject only to the rule of law.

2. Judges and magistrates may only be dismissed, suspended, transferred or retired for one of the reasons and with the guarantees provided by law.

3. The exercise of jurisdictional power in any kind of action, both in passing judgement and having judgements executed, lies exclusively with the competence of the courts and tribunals laid down by the law, in accordance with the rules of jurisdiction and procedure which may be established therein.

4. The courts and tribunals shall exercise only the functions indicated in the previous paragraph and those which are expressly allocated to them by law as a guarantee of some right.

5. The principle of jurisdictional unity is the basis of the organization and operation of the courts. The law shall regulate the exercise of military jurisdiction strictly within military limits and in cases of state of siege, in accordance with the principles of the Constitution.

6. Courts of exception are prohibited."

23. Article 122 of the Constitution provides:

"1. The Judicial Power Organization Act shall determine the setting-up, operation and control of the courts and tribunals, as well as the legal status of professional judges and magistrates, who shall form a single body, and of the staff serving in the administration of justice.

2. The General Council of the Judiciary is the latter's governing body. An organic law shall set up its statutes and the system of incompatibilities applicable to its members and their functions, especially in connection with appointments, promotions, inspection and the disciplinary system.

3. The General Council of the Judiciary shall consist of the President of the Supreme Court, who shall preside over it, and of 20 members appointed by the King for a five-year period, among whom shall be 12 judges and magistrates of all judicial categories under the terms established by the Organization Act; 4 nominated by the Congress of Deputies and 4 by the Senate, elected in both cases by a majority of three fifths of their members from among lawyers and other jurists of acknowledged competence and with over 15 years' experience in the exercise of their profession."

24. From the viewpoint of territorial organization of the State, the Kingdom of Spain is organized territorially into municipalities, provinces and autonomous communities (17 in total); these bodies enjoy self-government for the management of their respective interests. Title VII of the Constitution regulates this territorial organization of the State, in articles 137 to 158.

III. GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

A. General legal framework

25. The general framework within which the civil and political rights recognized by the International Covenant on Civil and Political Rights are protected in Spain is the Spanish Constitution. The civil and political rights recognized internationally are essentially contained in Title I, Section 1, chapter II, of the Spanish Constitution ("Fundamental rights and duties"). Article 53 of the Constitution establishes the system of guarantees for these rights, which is arranged as follows.

26. A legislative guarantee: Exercise of these rights may only be regulated by law, which shall, in every case, respect their essential contents. The law setting out the fundamental rights and public freedoms must be a fundamental law, which shall require a majority final vote of the Congress on the bill as a whole if it is to be adopted, amended or waived (art. 39 (1) and (2)). The substantive concept of fundamental law and related matters has been defined by the Constitutional Court (rulings of 13 February 1981, No. 76/1983 of 5 August 1983, No. 25/1984 of 23 February 1984 and No. 160/1986 of 16 December 1986). The Constitutional Court ensures the effectiveness of this guarantee by means of an action of unconstitutionality in respect of laws and enactments (art. 161 (1) (a)), which may be brought by the President of the Government, the People's Advocate, 50 deputies, 50 senators, the executive collegiate bodies of the autonomous communities and, when appropriate, their legislative assemblies (art. 162 (1) (a)). In addition, the State is required to obtain prior authorization from the Cortes Generales with respect to treaties or agreements affecting the fundamental rights and duties laid down in Title I (art. 94 (1) (c)) of the Constitution.

27. Judicial protection: Any citizen may assert his claim to protection of the freedoms and rights recognized in article 14 and section 1 of Chapter II (in addition to the right to conscientious objection recognized by article 30) in the ordinary courts. Act No. 62/1978 of 26 December 1978, providing "legal protection of the fundamental rights of the individual", lays down the procedure for such protection. The Second Transitional Provision of the Constitutional Court Organization Act extends the protection provided by that Act to all the rights included in article 53 (2) of the Constitution. The Judicial Power Organization Act (No. 6/1985) of 1 July 1985 (art. 7 (1)) stipulates that the rights and freedoms recognized in Chapter II of Title I of the Constitution are in their entirety binding upon all judges and courts by whose effective protection they are guaranteed. In this respect, article 5 (4) of the Act stipulates that "a breach of the Constitution shall provide sufficient grounds for an appeal to vacate in all cases provided for by the law".

28. Once they have exhausted judicial means, citizens may apply to the Constitutional Court by an application for amparo (Constitution, art. 53 (2)). This principle is set out in article 41 of the Constitutional Court Organization Act, in which paragraph 1 states that the rights and freedoms recognized by articles 14 to 29 can be protected by the constitutional remedy of amparo, in the cases and in the manner determined by the Act, without prejudice to general protection by the courts of law. Similar protection extends to conscientious objection, which is recognized by article 30 (2) of the Constitution, whereby "The constitutional remedy of amparo protects all citizens under the terms of this Act, against violations of the rights and freedoms referred to in the previous paragraph by orders, legal acts or acts of violence on the part of the public authorities of the State, the autonomous communities or other territorial, corporate or institutional public entities or by their officials or agents". Consequently, in order to appeal to the Constitutional Court for amparo, judicial means must first have been exhausted (rulings of the Constitutional Court, inter alia, rulings Nos. 73/1982, 29/1983 and 30/1984), and it has also been specified that the remedy in question does not constitute a third instance (ruling No. 11/1982 of the Constitutional Court). The persons entitled to lodge an application for amparo are those directly concerned by the order or administrative act and any party to the respective court proceedings, as well as the People's Advocate and the Public Prosecutor, who shall always be a party to any amparo proceeding (Constitutional Court Organization Act, art. 46 (1) (a) and (b) and art. 47 (2)).

29. Pursuant to article 54 of the Constitution, the People's Advocate is "a High Commissioner of the Cortes Generales, appointed to defend the rights of the individual and authorized to supervise the activities of the Administration and to report on them to the Cortes Generales". In addition to this supervisory role over the activities of the Administration, the People's Advocate, in his capacity as a defender of the rights of the individual, is authorized to lodge an application for amparo in respect of those rights (Constitution, art. 162 (1), and Constitutional Court Organization Act, art. 46). He coordinates with the parallel institutions in the autonomous communities (Ararteko in the Basque Country, People's Advocate in Andalusia, Síndic de Greuges in Catalonia, the Community of Valencia and the Balearic Islands, Valedor do Povo in Galicia, Diputado del Común in the Canary Islands and Justicia Mayor in Aragón. This institution is highly effective in protecting human rights, as illustrated by the number of complaints with which it has dealt: 19,599 complaints in 1992, of which 8,423 relating to the civil service, educational administration and culture; 3,115 to employment, social security and health; 2,607 to economic administration; 2,509 to justice; 1,583 to territorial administration and organization; 1,476 to defence and internal affairs. For the purpose of organizing the relationship between the People's Advocate and his opposite numbers in the various autonomous communities, Act No. 36/1985 of 6 November 1985 lays down the foundation for an orderly relationship with a view to the better achievement of their objectives.

30. In the Spanish legal system, the Office of the Public Prosecutor is a judicial body and its role is laid down in the Constitution, within the framework of the Judiciary (Constitution, Title VI, art. 124). Pursuant to this article, it is responsible for "promoting the working of justice in the defence of the rule of law, of citizens' rights and of the public interest as

safeguarded by the law". In accordance with the Organizational Statute of the Office of the Public Prosecutor (Act No. 50/1981 of 30 December 1981) its mission is to "ensure respect for the constitutional institutions and fundamental rights and public freedoms by whatever means are required for their defence" (art. 3 (3)) and "to take part in any court proceedings for amparo" (art. 3 (10)); it is also authorized to lodge an application for amparo with the Constitutional Court (art. 3 (10) relating to art. 162 (1) (b) of the Constitution and arts. 46 and 47 of the Constitutional Court Organization Act).

31. Parliamentary committee: The Regulations of the Congress of Deputies, of 10 February 1982 (arts. 40 to 53) govern the competence of the Standing Constitutional Committee and the Standing Petitions Committee and authorize the latter to examine individual or collective petitions received by Congress and to decide to refer them (a) to the People's Advocate, (b) to the Congressional Committee dealing with the issue concerned, and (c) to the Senate, Government, the courts, the Office of the Public Prosecutor or the relevant public administration. The Regulations of the Senate, of 26 May 1982, also provide for committees to promote and protect human rights (arts. 49 to 68). These are the General Petitions Committee, the Constitutional Committee, the Judicial Committee, the Standing Committee for Relations with the People's Advocate and the Committee for Human Rights.

32. Taking account of practice over these years, the Kingdom of Spain undertakes, in regard to its obligation under the International Covenant on Civil and Political Rights, not only to respect but also to ensure "to all individuals within its territory and subject to its jurisdiction the rights recognized in the ... Covenant".

33. As to the recognition of rights, it must once again be stressed that the Covenant has been fully incorporated into internal legislation in Spain, in accordance with article 96 (1) of the Constitution. The recognition of the fundamental rights and freedoms set out in the Spanish Constitution and the wide-ranging body of organizational legislation on these rights and freedoms must also be reiterated.

34. Respect for the rights recognized in the Covenant is reinforced in Spain by article 10 (2) of the Constitution, which stipulates that "the principles relating to the fundamental rights and freedoms recognized by the Constitution shall be interpreted in conformity with the Universal Declaration of Human Rights and the international treaties and agreements thereon ratified by Spain".

35. The importance of the remedy of amparo and its extraordinary usefulness in protecting fundamental rights have already been highlighted in earlier reports. It should be mentioned, in order to update information on this point, that the State has had to take steps in response to the disproportionate use that has been made of amparo, which many have regarded as an additional remedy in cases of personal litigation. The increase in the number of applications for amparo, often devoid of genuine substance, was threatening to paralyse or at least delay the work of the Constitutional Court. Organization Act No. 6/1988 was therefore adopted on 9 June 1988

amending article 50 of the Constitutional Court Organization Act to provide for the rejection of applications for amparo devoid of genuine substance by unanimous decision of sections composed of three magistrates.

B. International protection of civil and political rights

36. The system of protection of civil and political rights outlined above is completed by the international guarantee deriving from Spain's recognition of the international agreements relating to the protection of those rights. Spain acceded to the Optional Protocol to the International Covenant on Civil and Political Rights, adopted in New York by the United Nations General Assembly on 16 December 1986. The instrument of accession, dated 17 January 1985, was published on 2 April 1985; the sole interpretative statement concerned article 5, paragraph 2, of the Protocol and specified that the Human Rights Committee should not consider any communication unless it had ascertained that it was not being examined under another procedure of international investigation or settlement. This reservation, similar to those entered by Denmark, France, Iceland, Italy, Luxembourg, Norway and Sweden, can be explained by the fact that Spain, like those countries, had agreed that the European Commission of Human Rights is competent to receive petitions from individuals about alleged violations of the rights recognized by the European Convention for the Protection of Human Rights and Fundamental Freedoms and had agreed to the jurisdiction of the European Court of Human Rights.

37. In particular, and with regard to recognition of the competence of the European Commission of Human Rights, on 18 October 1985 Spain renewed its declaration and said that subsequently "it would be tacitly renewed for further five-year periods unless otherwise stated prior to the expiry of the current period". Similarly, Spain has periodically renewed its recognition of the jurisdiction of the European Court of Human Rights.

38. As to regional protection of human rights, in an instrument dated 20 December 1984 (published on 17 April 1985) Spain ratified the Sixth Protocol to the European Convention on Human Rights concerning the Abolition of the Death Penalty done at Strasbourg on 28 April 1983.

39. Spain ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted in New York on 10 December 1984, by an instrument dated 10 October 1987. In its instrument of ratification, Spain declared, under articles 21 (1) and 22 (1) of the Convention, that it recognized the competence of the Committee against Torture to receive and consider communications from a State party or an individual alleging violations of the provisions of the Convention by the State concerned.

40. The Kingdom of Spain ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on 2 May 1989 and received the second regular visit of the Committee established by the Convention in April 1994 (the first visit took place in March 1991).

41. Spanish democracy, re-established in 1978, has moved on from its initial phase, and today practically all the principles relating to fundamental rights and freedoms are fully operational, as described in the various paragraphs of this report.

IV. INFORMATION AND PUBLICITY

42. The dissemination of the human rights instruments ratified by the Kingdom of Spain is of great importance. In conformity with the Spanish Constitution, validly concluded international treaties are published in the Boletín Oficial del Estado, in the same way as any other law of the State. Since, with effect from their publication, these treaties form part of the internal order of Spain they are publicized in the same way as legislative provisions, particularly when they deal with human rights concerning which the Constitution prescribes that "The standards relative to the fundamental rights and freedoms recognized by the Constitution shall be interpreted in conformity with the Universal Declaration of Human Rights and the international treaties and agreements thereon ratified by Spain".

43. These instruments on human rights are translated into the languages of the autonomous communities.

44. There are numerous institutions, both public and private, whose main task is the study and dissemination of human rights, both nationwide and at the autonomous community level; they have a wide range of activities.

45. One of the very important activities of the People's Advocate, the High Commissioner of the Cortes Generales for the defence of fundamental rights and his counterparts in the autonomous communities is the preparation of annual reports concerning their activities, which they submit to the Cortes Generales (Legislative Assemblies in the autonomous communities) and which are published.

46. The International Covenant on Civil and Political Rights is widely disseminated in Spain, as evidenced by the continual reference made to it by the courts. Since it has been incorporated into national legislation, the Covenant is included in all basic textbooks on law, together with the other treaties on fundamental rights and freedoms ratified by Spain.